Executive Summary
Direct Investigation Report

Arrangements for Production, Distribution, Stocktaking and Use of CSI Masks

Introduction

The Correctional Services Department ("CSD") manufactures filter masks ("CSI masks"), which are mainly supplied to the Government Logistics Department ("GLD"), and then distributed by GLD for use by various policy bureaux and departments ("B/Ds" or "user B/Ds"). In January 2020, Hong Kong reported its first confirmed case of coronavirus disease 2019 ("COVID-19"). Following the development of COVID-19, there was a spike in public demand for filter masks, resulting in an acute shortage of supply. Meanwhile, the media and members of the public reported that CSI masks were on sale in the market, and this Office also received public complaints about alleged misuse of CSI masks.

2. Against this background, we launched a direct investigation against CSD and GLD to examine their mechanisms, procedures and implementation with respect to the production, distribution and stocktaking of CSI masks, so as to identify any inadequacies and make improvement recommendations to the authorities where necessary. We also obtained information from five user B/Ds (namely the Food and Environmental Hygiene Department, the Customs and Excise Department, the Census and Statistics Department, the Registration and Electoral Office, and the Electrical and Mechanical Services Department). We hope to learn more about how CSI masks were handled by user B/Ds in general through examining the information provided by the above seven departments.

3. Besides, in response to the COVID-19 outbreak, the Customs and Excise Department ("C&ED") has launched a large-scale operation codenamed "Guardian" since 27 January 2020 to carry

out spot checks of common protective items across the territory. We also obtained from C&ED the data related to CSI masks under "Operation Guardian".

4. Based on the investigation findings, our comments are as follows.

Our Comments

Overall Arrangements from Production to Delivery of CSI Masks were Duly Followed - CSD

5. The Industries and Vocational Training Section of CSD's Headquarters ("HQ I&VT Section") uses the computerised Manufacturing Management and Control System ("MMCS") to monitor the entire production process from procurement of raw materials to delivery of a wide range of finished products (including CSI masks). In particular, it reviews and controls the completion of purchase orders, consumption of raw materials, delivery of goods, etc. via MMCS. All data concerning the supply of raw materials from suppliers and the retrieval of those materials from industrial warehouses, as well as the quantity of masks produced and delivered are inputted into MMCS.

6. For CSI masks, CSD places purchase orders periodically with its raw material suppliers, requiring them to deliver the raw materials to specified locations. Upon receiving the raw materials, the institutions will store them in their industrial warehouses which are secured by locks. After receiving a client order, HQ I&VT Section will issue job orders via MMCS to the institution workshops for commencing production of masks according to the quantity specified in the order, including retrieving sufficient raw materials from the industrial warehouses. To access the warehouses, staff are required to collect and return the keys according to established procedures.

7. Finished masks awaiting delivery are temporarily stored in

the industrial warehouses mentioned above. Similarly, to access the warehouses to retrieve the masks, staff are required to collect and return the keys according to established procedures. Before delivery of masks to a client, the institution officer responsible for internal logistics is required to present to the gate supervisor a barrier permit issued by a chief officer, industries manager/coordinator or their authorised representatives. After verifying the masks to be taken outside the institution, the gate supervisor will sign on the barrier permit. The masks will then be passed to a transportation contractor for delivery to the client. Such measures are to safeguard that the masks taken outside the institution are not more than the permitted quantity. CSD also requires the contractor to return the delivery note signed and confirmed by the client upon completion of delivery before settlement of transportation fees, thereby ensuring that the delivery is properly carried out.

8. Where substandard masks are produced during the mask-making process, the inmates and staff concerned will follow the established procedures to cut up and discard those masks, so as to ensure that they cannot be used.

9. Regarding the stocktaking of masks, CSD will verify the stores of all products (including CSI masks) every half year. The stores records are compared with the MMCS records for examining any loss of finished or semi-finished masks, or any discrepancies between the two records. CSD will also review whether the actual consumption of raw materials according to the stores records has deviated from the estimated quantity. In the stocktaking exercises between 2015/16 and 2019/20, CSD did not find any loss of raw materials of masks, semi-finished masks and/or finished masks, or any discrepancies between the relevant records.

10. After reviewing CSD’s entire process from procurement of raw materials, mask production to delivery, we consider its mechanism largely sound and adequate. CSD has also drawn up proper protective measures to guard against misappropriation of

masks, covering the four critical procedures for storage, delivery, stocktaking of finished masks, and disposal of substandard masks. After examining the data and records of CSD, we have not found any signs of non-compliance with those measures on the part of CSD.

No Loopholes Found in the Overall Arrangements from Procurement to Distribution of CSI Masks - GLD

11. GLD uses the computerised Unallocated-Store ("U-Store") Program to process orders from B/Ds, such as recording the incoming and outgoing quantities of various stores, the estimated demand for stores from B/Ds, and the delivery of stores.

12. As regards masks (including CSI masks), GLD will request, before the start of each financial year, all B/Ds to submit their estimated demand for different types of masks in the upcoming financial year. After reviewing the estimated demand from all B/Ds, GLD will arrange for subsequent procurement of stores, taking into account the quantity of masks held in stock and the estimated aggregate demand from all B/Ds. GLD will require suppliers to deliver masks in a timely manner, and keep in its unallocated store with security measures the masks procured but not yet delivered to B/Ds. To access the unallocated store, relevant staff are required to register before collecting and returning the keys. Pursuant to the Stores and Procurement Regulations ("SPR"), GLD will also conduct surprise inspection on the security measures of the unallocated store.

13. After the start of each financial year, B/Ds may request GLD to distribute the masks by issuing e-orders via the U-Store Program. Any B/Ds in need of more masks than the approved quantity after the start of financial year should first submit justifications to GLD for consideration of their request in light of all factors. Upon approval by GLD, the B/Ds concerned will issue e-orders to GLD via the U-Store Program.

14. Upon receiving an e-order from B/D, GLD will decide on

which batch of U-Store items is to be distributed based on the "first-in first-out" principle and the suggested shelf life of masks. It will then arrange for delivery of masks to the requisitioning B/D by its own fleet or transportation contractor. In either case, GLD will require the return of delivery note signed and confirmed by the requisitioning B/D to ensure that the delivery is properly completed.

15. As for the stocktaking of masks, GLD keeps complete records of the receipt and despatch of all stores (including CSI masks), and regularly inspects its unallocated store pursuant to the SPR. According to its records between 2013 and 2019, no discrepancies were found between the physical and ledger balances of CSI masks.

16. After reviewing GLD's entire process from procurement to delivery of masks (including CSI masks) to B/Ds, we consider its overall mechanism satisfactory. To guard against misappropriation of masks during the process, GLD has adopted proper measures for three critical procedures, namely storage, delivery and stocktaking of masks (including CSI masks). Moreover, after examining the data and records of GLD, we have not found any signs of non-compliance with the relevant procedures on the part of GLD.

Inconsistent Mechanisms for Distributing Masks by User B/Ds before Pandemic

17. After announcing the launch of this direct investigation, we received comments from the public criticising that the mechanisms for distributing masks by certain B/Ds before the pandemic were lax. It was even alleged that the staff of a B/D collected and provided the leftover masks to their relatives and friends after the pandemic outbreak.

18. According to information from the seven departments, before the pandemic, certain departments distributed the majority of masks to their staff, with a small quantity reserved for back-up purpose. Certain departments placed some masks in the workplace for staff use. One particular department only provided masks upon

request of staff. None of the departments would ask their staff to sign upon receipt of the masks. Upfront distribution of masks, in comparison to the other two practices, would involve lower administrative costs, but it might result in some staff members having received masks in excess of the quantity they actually need, thus increasing the risk of those masks being given or sold to others.

19. Admittedly, masks were not in shortage before the pandemic. As masks are non-inventory items of small value, B/Ds and their subordinate units are not required under the SPR to keep detailed records for distribution of such items, much in the same way as other consumables. We, therefore, consider it understandable for some B/Ds to opt for upfront distribution of masks to staff before the pandemic. In fact, since the pandemic outbreak, all the seven departments have adopted proper measures to check against misuse of masks, and strengthened their distribution arrangements. For instance, designated officers are responsible for distribution and custody of masks and keeping a record of distribution, or staff are required to sign upon receipt of masks. Moreover, between late February and early May 2020, the departments inspected their stock of masks weekly and submitted the data to the Financial Services and the Treasury Bureau ("FSTB") at its request. The actions taken were appropriate.

20. In any event, it was revealed in a case involving a contravention of the Trade Descriptions Ordinance ("TDO") convicted by the Eastern Magistracy on 23 September 2020 that CSI masks were on sale in the market. In the long run, to minimise the risk of personal protective equipment ("PPE"), including CSI masks, being misused or even resold for profit, we recommend that GLD draw up guidelines for B/Ds on distribution and management of PPE (including CSI masks), as well as monitoring the quantity used, in normal and contingency circumstances.

Lax Procedures for Disposing of Expired Masks by a User B/D

21. According to information from C&ED, when investigating a

case involving a contravention of the TDO earlier, C&ED not only seized CSI masks on sale from the pharmacy proprietor concerned, but also found two green packaging boxes of CSI masks in the former design, printed with the manufacture dates “09 OCT 2014” and “21 NOV 2014” respectively. The case revealed that the CSI masks on sale in the market were probably expired CSI masks, which should have been discarded.

22. As a possible source of expired CSI masks was those discarded by B/Ds, we examined the procedures of the seven departments for disposing of expired masks (including CSI masks). Among the seven departments, one of them would assign staff to cut and destroy expired masks and packaging boxes, which would then be discarded in fastened plastic garbage bags. Another department, when there was an acute shortage in the supply of masks at the onset of the pandemic, kept the expired masks in good condition as the last resort and afterwards distributed some of those masks to staff for contingency use. According to information found online and provided to this Office by a civil servant, some expired masks were allegedly distributed to staff by B/Ds. We believe that if the allegation is true, some B/Ds might have distributed the expired CSI masks from their reserves to staff when the supply was tight at the onset of the pandemic.

23. We note that it is stipulated in the Guidelines and Procedures for Stores Management of Government Stores issued by GLD that all B/Ds should handle expired stores pursuant to the SPR. However, no specific procedures for disposing of expired masks are provided in the SPR and thus different practices were adopted by different departments. We understand that the decision to keep and/or distribute expired masks was one made by the department after balancing the pros and cons. Nevertheless, we consider that the quality and filtration efficiency of masks might become lower after the expiry date. If the expired masks were distributed to staff for use, or, due to the lax procedures for handling expired masks, those masks were scavenged and used by outsiders, it would not only fail to protect the users’ health, but also pose a threat to public health. To prevent expired masks from being used by B/D staff or

others, and to effectively guard against circulation of those masks in the market, we recommend that GLD issue guidelines to B/Ds as soon as possible to strongly remind them to distribute masks based on the "first-in first-out" principle and their suggested shelf life, so as to avoid having unused masks beyond the expiry date. The guidelines should also stipulate a set of uniform and stringent procedures for disposing of expired masks to make sure that those masks cannot be used and sold in the market.

24. Moreover, we also recommend that GLD take this opportunity to draw up and issue to B/Ds guidelines on the disposal of expired PPE other than masks. This should ensure that expired PPE would not be distributed to staff, nor would it be scavenged and used, or even resold for profit, by outsiders after disposal. Given that expired PPE (including masks) cannot offer adequate protection, which is a potential risk to personal and public health and safety, we consider it imperative for the authorities to tackle the issue seriously.

No Evidence of CSI Masks Circulated in Market Extensively or Systematically

25. Our direct investigation stemmed from media and public reports that CSI masks were on sale in the market. Although no discoveries were made during our site visit of pharmacies in Sham Shui Po, we consider that a convicted case involving a contravention of the TDO has confirmed that CSI masks had been sold in a pharmacy. Nevertheless, according to data from C&ED, it conducted more than 38,000 inspections at retail spots between 27 January and 31 October 2020 under "Operation Guardian". Yet, other than the case mentioned above, customs officers have not discovered any CSI masks and/or their packaging boxes on display for sale. We consider that the data of "Operation Guardian" reflects to a certain extent that CSI masks have not been circulated in the local market extensively or systematically. The masks seized by C&ED were probably expired CSI masks, which should have been discarded.

26. As regards why there was an isolated case of CSI masks on sale in the market, we are unable to establish the reason in the absence of specific and direct evidence. Nonetheless, our investigation revealed that the mechanisms for distributing masks by some departments before the pandemic were rather lax, and the procedures of a certain department for disposing of expired masks were not entirely stringent. This could increase the risk of misuse of CSI masks.

27. We must reiterate that pursuant to the SPR and the Civil Service Code, public officers are personally responsible for the safe custody of all stores received by them in the course of their duties, and shall use public resources only for the authorised purposes. Consequently, it is in breach of the SPR and the Civil Service Code to give or sell the masks to others. Additionally, anyone who sells such items may commit a criminal offence.

No Restrictions on Non-governmental Organisations ("NGOs") against Resale of CSI Masks Previously

28. We notice that NGOs in the past could purchase masks from CSD after providing certain basic information. CSD had not restricted how NGOs should use the masks, such as reselling or using them for private purposes. In fact, unless otherwise stipulated in the purchase agreement, NGOs were entitled to decide how to use the purchased CSI masks. However, after the outbreak of COVID-19, CSI masks manufactured with public resources have attracted considerable attention from the community.

29. We are pleased to learn that CSD has sought legal advice from the Department of Justice in mid-February 2020 and subsequently decided to impose restrictions on NGOs against resale, export or private usage of goods and/or services purchased from CSD. A specialised application form for placing job orders by NGOs was introduced in late April, stipulating the terms and conditions for NGOs when purchasing goods and/or services from CSD in future. On 27 November 2020, CSD informed this Office that it had decided not to consider resuming the sale of CSI masks

to NGOs in future. We consider CSD to have taken proper action in this connection to address the concern raised following the pandemic, which can reduce the potential risk of misuse of CSI masks and other goods/services.

Consideration to be Given to Setting Priorities for Accepting Purchase Orders of CSI Masks and Enhancing Transparency

30. CSD did not advertise and solicit purchase orders for its CSI masks. Apart from GLD, CSI masks were sold to those organisations approaching CSD to enquire and purchase the product after they had learned about its availability from various channels. Before the COVID-19 pandemic, CSD would decide whether to accept purchase orders from organisations other than GLD after considering any surplus production capacity of its workshop and the ability to meet the delivery deadline requested by the client. However, as CSI masks are priced significantly lower than other filter masks on sale in the market, CSD’s current practice would only benefit those organisations in the know about the masks available from CSD, and would surely give an impression of inadequate transparency. When the subject of CSI masks was widely discussed in the community, public scepticism was fuelled by the lack of transparency about the sale of those masks. We agree that it is in public interest to suspend accepting purchase orders from organisations other than GLD until the COVID-19 pandemic is under control, such that CSD can concentrate resources on meeting the demand from B/Ds. Since CSD has acquired extra mask production machines to boost its mask production capacity in response to the pandemic, we reckon that CSD should review its policy of accepting purchase orders for masks in normal and contingency circumstances, after balancing such factors as optimisation of resources (i.e. mask production machines and relevant devices, equipment) and B/Ds’ demand for masks. In particular, it should consider setting priorities for target clients, changing the method of accepting purchase orders from organisations other than GLD (i.e. the Hospital Authority or other public organisations) and establishing a mechanism for accepting those orders, as well as enhancing transparency of relevant

information.

List of Non-B/Ds Eligible for Distribution of Masks to be Reviewed

31. We note that in addition to B/Ds, six non-B/Ds, namely this Office, the Independent Commission Against Corruption, the Independent Police Complaints Council, the Judiciary, the Public Service Commission and the Legislative Council Secretariat, may also request distribution of masks from GLD. We accept that with adequate supply before the COVID-19 pandemic, it was unproblematic for GLD to distribute masks to non-B/Ds, such that those publicly funded organisations could purchase masks at lower costs. However, we note that other statutory bodies of similar nature are not on the name list. We suggest that GLD review the list of non-B/Ds eligible to request distribution of masks from GLD in normal circumstances.

Contingency Guidelines to be Drawn up Based on Experience of Coping with This Pandemic

32. During our direct investigation, we note that CSD has since January 2020 ceased accepting purchase orders for masks from organisations other than GLD, and continued to reserve a small quantity of masks for internal consumption, such that it can concentrate resources on meeting the demand for masks from B/Ds. At the same time, CSD has taken measures to raise the output of masks incrementally, with the monthly output gradually boosted from around 1.011 million in 2018/19 to 4.057 million in March 2020.

33. As regards GLD, it has since January 2020 adopted various means to approach manufacturers and suppliers for procurement (including direct procurement) of masks. Meanwhile, GLD conducted an open tender for procuring masks in late January 2020, thereby contacting more suppliers and diversifying the source of supply. Furthermore, in a bid to accurately assess B/Ds’ demand for masks under the pandemic, FSTB requested in early February

2020 all B/Ds to review the quantity of surgical masks required monthly, such that GLD could arrange for the corresponding procurement as soon as possible and maintain adequate supply of masks for B/Ds.

34. We consider CSD and GLD to have diligently performed their duties and endeavoured to meet the surging demand for masks from B/Ds under the pandemic. To facilitate their timely response to similar or other contingency situations in future, we recommend that CSD, based on the experience gained this time, draw up contingency guidelines regarding the criteria and priorities for accepting the purchase orders of masks and/or other PPE, and the corresponding arrangement for increasing the output of masks and/or other PPE in epidemic and/or other contingency circumstances; GLD, also based on the experience gained this time, draw up pragmatic and proper contingency guidelines regarding the collection and assessment of B/Ds' demand for masks and/or other PPE, and the corresponding arrangement for procuring masks and/or other PPE in epidemic and/or other contingency circumstances.

Failing to Disclose More Information in Timely Manner to Address Market Rumours and Public Enquiries

35. At the onset of the COVID-19 pandemic, there was a desperate shortage of masks in the local market. Concurrently, a lot of media coverage, online information and rumours about suspected misuse of CSI masks were widely circulating. It not only caused public concerns and speculations about any misuse of CSI masks, but also prompted public requests for clarification from the Government on the production and sale of CSI masks. Nonetheless, the relevant B/Ds rejected their requests, contending that the disclosure of detailed information on PPE (including CSI masks), such as the stock, usage, quantities procured and moneys involved, would undermine the bargaining power of GLD and B/Ds in their procurement exercises, given the fierce competition for sourcing PPE at that time. Meanwhile, this Office received a number of complaints about access to information related to CSI masks under

the Code on Access to Information.

36. In our opinion, the outflow of CSI masks became a topic of wide community concern partly owing to the lack of information for the public to understand and grasp the production, distribution, stocktaking and management of CSI masks by relevant B/Ds. As the public tried to obtain more information but to avail, more speculations and conjectures were generated. We accept that relevant B/Ds were fully occupied in dealing with the heavy workloads brought by the pandemic at that time. It is also worth considering whether voluntary disclosure of such information would conversely impact on the fight against the coronavirus and the stakeholders. However, allowing public speculations and rumours to persist would only reinforce the impression of cover-ups on the part of the Government.

37. We are pleased to note that the Government eventually issued in August 2020 a report on PPE to release information on the Government's procurement, stock and distribution of PPE (including CSI masks). We also urge the B/Ds concerned to take reference from this experience and contemplate how to disclose relevant information in a timely and proper manner under similar situations in future, after fully considering such factors as public interest and minimising any impact on the functions of B/Ds. This would help allay public concern and maintain public confidence in the Government.

Our Recommendations

38. In light of the above, The Ombudsman makes the following recommendations to CSD and GLD:

CSD

(1) to review its policy of accepting purchase orders for CSI masks in normal and contingency circumstances, such as setting priorities for target clients, changing the method

of accepting purchase orders from organisations other than GLD and establishing a mechanism for accepting those orders, as well as enhancing transparency of relevant information;

(2) based on the experience of meeting surging demand for masks from B/Ds this time, to draw up contingency guidelines regarding the criteria and priorities for accepting the purchase orders of masks and/or other PPE, and the corresponding arrangement for increasing the output of masks and/or other PPE in future epidemic and/or other contingency circumstances;

GLD

(3) to draw up and issue to B/Ds guidelines on distribution and management of PPE (including CSI masks), as well as monitoring the quantity used, in normal and contingency circumstances;

(4) to issue guidelines on proper disposal of expired masks to B/Ds as soon as possible, stipulating a set of uniform and stringent procedures for B/Ds to follow and strongly reminding B/Ds to distribute masks based on the “first-in first-out” principle and their suggested shelf life;

(5) to draw up and issue to B/Ds guidelines on disposal of other expired PPE (such as N95 respirators);

(6) to review which non-B/Ds are eligible to request distribution of masks from GLD in normal circumstances; and

(7) based on the experience of meeting surging demand for masks from B/Ds this time, to draw up pragmatic and proper contingency guidelines regarding the collection and assessment of B/Ds’ demand for masks and/or other PPE, and the corresponding arrangement for procuring

masks and/or other PPE in future epidemic and/or other contingency circumstances.

Office of The Ombudsman
December 2020